other," within § 17a (2), supra, because petitioner had elected to sue in conversion and thereby waived the fraudulent character of the demand, and that it was not a debt "created by fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in a fiduciary capacity," within § 17a (4), supra, because not committed in a technically fiduciary capacity. *In re Ennis & Stoppani. Ex parte Roche* (1909), — D. C., S. D., N. Y. —, 171 Fed. 755.

The rule is well settled that debts not ordinarily capable of being discharged under the Bankruptcy Act may be made so by the petitioner's electing to sue in conversion. *Chapman* v. *Forsyth,* 2 How. 202; *Crawford* v. *Burke,* (1904), 195 U. S. 176, 25 Sup. Ct. 9, 49, L. Ed. 147; *Tindle* v. *Birkett,* (1907), 205 U. S. 183, 27 Sup. Ct. 493, 51 L. Ed. 762. Contra, *Kavanaugh* v. *McIntyre,* (1908), 128 App. Div. 722, 112 N. Y. Supp. 987; but see this case apparently contradicted by a court of equal rank in *Maxwell* v. *Martin,* (1909), 130 App. Div. 80, 114 N. Y. Supp. 349. This would sufficiently sustain the decision of the court that the claim presented was not within the exception named in § 17a (2), supra, and there seems to be no good reason why a plaintiff should not be held bound by his election as to § 17a (4) also. The court, however, rests its decision upon this point on the ground that the phrase, "in a fiduciary capacity," qualifies all preceding terms, including fraud. As observed by the court in the principal case, this holding was necessary under *In re Adler,* (1907), 152 Fed. 422, 81 C. C. A. 564. It leaves the anomolous result, however, that "fraud," which was taken out of § 17a (2), by the amendment of 1903, is now excepted from a discharge only when committed in a technically fiduciary capacity, which is generally held not to include the brokerage relation. *Chapman* v. *Forsyth,* (1844), 2 How. 202; *Crawford* v. *Burke,* (1904), 195 U. S. 176, 25 Sup. Ct. 9, 49 L. Ed. 147; *Tindle* v. *Birkett,* (1907), 205 U. S. 183, 51 L. Ed. 762.

BANKRUPTCY—JURISDICTION OF COURT—PROPERTY IN OTHER DISTRICTS.—An involuntary petition was filed in the district court for the Southern District of New York against a New York corporation doing business in Missouri, and a receiver was duly appointed. Prior to the filing of the petition, appellant had secured a judgment against the corporation in a Missouri state court, and execution had been issued, and a sale of property had been ordered. The receiver appeared in the Missouri district court and moved for the appointment of an ancillary receiver and an injunction to restrain the sheriff from making the sale. An order was issued that the relief be granted as prayed. Appellant then applied to the Missouri district court to vacate the order. On the hearing, the trustee, who had been duly appointed in the meantime by the New York court, appeared, setting up his appointment, etc., and the court ordered the ancillary receiver to turn over all property received from the sheriff to the New York trustee, saving any rights the creditor might have, and continued the injunction as to the sheriff in favor of the trustee. On appeal from this order it is *Held,* that the entire proceeding in the Missouri court was *coram non judice. In re Dempster. Dempster* v. *Waters-Pierce Oil Co. et al.,* (1909), — C. C. A., 8th cir. —, 172 Fed. 353.

Thus far the authorities are about evenly divided as to the power of a district court to appoint an ancillary receiver to take charge of property within its jurisdiction, though the principal case is in accord with the present weight of authority. COLLIER, BANKRUPTCY, Ed. 7, p. 21, and cases cited. One line of cases holds, as above, that courts of bankruptcy possess only statutory powers, which, being in derogation of the common law, are to be strictly construed, and that such authority is not a proper or necessary implication from § 2 (3) of the Bankruptcy Act, and therefore does not exist. *In re Williams,* (1903), 120 Fed. 38, 9 Am. B. R. 741; *In re Williams,* (1903), 123 Fed. 321, 10 Am. B. R. 538; *In re Tybo Mining & Reduction Co.,* (1904), 132 Fed. 697, 13 Am. B. R. 62; *In re Von Hartz,* (1905), 142 Fed. 726, 15 Am. B. R. 747; *Ross-Meeham Foundry Co.* v. *So. Car & Foundry Co.* (1903), 124 Fed. 403, 10 Am. B. R. 624. Another line of authorities holds that such a power is a part of the general jurisdiction over bankruptcy, and is the most convenient method of reaching property in districts outside that of the adjudicating court. *In re Schrom,* (1899), 97 Fed. 760, 3 Am. B. R. 352; *In re Peiser,* (1902), 115 Fed. 199, 7 Am. B. R. 690; *In re Benedict,* (1905), 140 Fed. 55, 15 Am. B. R. 232; *In re Dunseath & Son Co.,* (1909), 168 Fed. 973. The difference seems to be one of procedure rather than substance, however, since in the principal case the New York court might have appointed a receiver to take charge of the Missouri property, and by its own order restrained the execution sale. *In re Muncie Pulp Co.,* (1907), 151 Fed. 732, 81 C. C. A. 116. Or the receiver might have secured a stay in a state court under § 11, and in case of a refusal by the court to accede to the demand, the circuit court would probably have original jusisdiction as a case arising under the laws of the United States, under the Judiciary Act.

BILLS AND NOTES—FICTITIOUS OR NON-EXISTING INDORSEE—KNOWLEDGE OF INDORSER.—Plaintiff brings suit on a note the title to which is derived through the indorsement of the payee to a fictitious person or bearer. *Held* (DUNN, J., dissenting), that although the indorser did not know that his indorsee was fictitious, such indorsement made the instrument "payable to bearer" and authorized the bearers to sue thereon in their own name. *Keenan et al.* v. *Blue et al.,* (1909), — Ill. —, 88 N. E. 553.

The majority of the court based their decision on the ground that where there is no statute on the subject, the transfer of a negotiable instrument to a fictitious person or bearer will be treated as making it "payable to bearer," and that the indorsement to the fictitious person was an indorsement to no person at all, and the name may be stricken out. The dissenting judge held that since the note was put in circulation without the indorser's knowledge that the indorsee was a fictitious person, it was not equivalent to an indorsement to bearer, for by Illinois law the words "or order" and "or bearer," in an instrument payable to a person named or order, or to a person named or bearer, are surplusage; therefore, title to the note did not pass by delivery, citing *Roosa* v. *Crist,* 17 Ill. 450, 65 Am. Dec. 679; *Turner* v. *Peoria & Springfield Ry. Co.,* 95 Ill. 134, 35 Am. Rep. 144. *Chism* v. *First Nat. Bank,* 96 Tenn. 641, 36 S. W. 387, 32 L. R. A. 778, 54 Am. St. Rep. 863, cited in